In the High Court of Punjab & Haryana at Chandigarh

Civil Revision No. 5633 of 2007

Date of decision: November 26, 2007

Ashok Kumar

... Petitioner

versus

Vikas Goel and another

... Respondents

Coram: Hon'ble Mr. Justice A.N. Jindal

Present: Mr. Ram Lal Gupta, Advocate
for the petitioner.

Mr. Rajan Bansal, Advocate for
Mr. Ashok Singla, Advocate
for the respondent.

A.N.Jindal, J.

This order will dispose of the instant revision petition against the order dated 16.8.2007 passed by the learned Rent Controller, Faridkot, vide which it assessed the provisional rent @ Rs.600/- per month w.e.f. 1.1.2004 to 30.7.2006 with costs of Rs.500/- and interest @ 6% per annum. The order is reproduced as under :-

> *"File taken up today as I was on leave on 14.8.2007. Today counsel for the respondent No.2 Sh.B.D. Kumar produced the order of the Hon'ble High Court in C.R. No.2466 of 2007 decided on 8.5.2007 by which the direction to this court has been given for assessment of the provisional rent at the rate of Rs.600/- per month. Accordingly, provisional rate of rent is assessed at the rate of Rs.600/- per month from 1.1.2004 to 30.7.2006 with cost of Rs.500/- and interest @ 6% per annum. Case be now fixed for 20.9.2007 for tender the rent.*
>
> *Sd/- CJ(JD) 16-8-07"*

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From the tenor of the order, it transpires that the Rent Controller passed this order on the basis of the order passed by this Court in C.R. No.2466 of 2007 decided on 8.5.2007. The said order is reproduced as under :-

> *"The impugned order transpires that the order assessing the rent is not in conformity with the judgment passed in Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation 2002 (1) R.C.R. (Rent) 514 as no arrears of rent and the interest on such arrears and no order quantifying by way of interim order or provisional order, the amount which the tenant must pay or tender on the first date of hearing after such order of assessment has been passed.*
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> *In these circumstances, this petition is disposed of with the direction that the respondents will provisionally deposit the arrears of rent at the rate of Rs.600/- per month on the next date of hearing as fixed by the learned Rent Controller and then the Rent Controller will assess the rent keeping in view all the pleadings of the parties in conformity with the observations in Rakesh Wadhawan's case (supra).*
>
> *May 8, 2007* *Sd/-*
> *A.N. Jindal, J."*

From the cursory look of the two orders, it transpires that the impugned order sans the application of mind. The intentn and spirit of the order was to direct the tenant to deposit some rent on provisional basis but still it was left with the Rent Controller to assess the provisional rent after hearing both the parties in conformity with the provisions delivered by the Apex Court in case **Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation 2002 (1) R.C.R. (Rent) 514**.

It has also been pointed out by the learned counsel for the

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petitioner that earlier the Rent Controller vide order dated 26.4.2007 had fixed the rent as Rs.1800/- per month.

Under these circumstances, this revision petition is accepted. The order passed by the Rent Controller dated 16.8.2007 is set aside and he is directed to determine the provisional rent afresh. It is further made clear that the court will not be influenced by any order passed earlier but independently decide the provisional rent as per the judgment delivered in Rakesh Wadhawan's case (supra).

November 26, 2007 (A.N. Jindal)
deepak Judge